

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:) CHAPTER 13
CAROLYN ELAINE MILLER)
DEBTOR.) CASE NO. 18-52637-PMB
)
)
)


**CHAPTER 13 TRUSTEE'S
OBJECTION TO CONFIRMATION & MOTION TO DISMISS CASE
PURSUANT TO 11 U.S.C. SECTION 109(g)(1)**

COMES NOW Melissa J. Davey, Chapter 13 Trustee, and objects to confirmation of the plan and files this motion to dismiss under 11 U.S.C. Sections 1307(c), 109(g), 349(a), and 105(a), for cause, including the following reasons:

1. The plan as proposed will extend beyond sixty (60) months, contrary to 11 U.S.C. Section 1322(d).
2. The Debtor has failed to provide the Trustee with a copy of the federal income tax return for the most recent tax year ending immediately before the commencement of the instant case in violation of 11 U.S.C. Section 521(e)(2)(A)(i).
3. Pursuant to information received from the Internal Revenue Service, 2017 tax returns have not been provided to the taxing authorities; thereby, preventing the Chapter 13 Trustee from evaluating the feasibility of the Chapter 13 Plan, in violation of 11 U.S.C. Sections 1322(d) and 1325(a)(6).
4. The Trustee requests proof that Debtor has paid the post-petition mortgage payments for Debtor's residence in order to determine whether the Plan complies with 11 U.S.C. Sections 1325(a)(3) and 1325(b)(1)(B).
5. As the Debtor received a Chapter 7 discharge on March 14, 2014 in case number 12-69735 filed August 6, 2012, the proposal to pay unsecured creditors a zero percent (0%) dividend may indicate a lack of good faith in violation of 11 U.S.C. Section 1325(a)(3).
6. The Trustee objects to the proposed Chapter 13 composition Plan, which fails to provide for payment of Debtor's federal income tax refunds to creditors during the applicable commitment period (2017, 2018, and 2019), in possible violation of 11 U.S.C. Sections 1325(a)(3) and 1325(b)(1)(B).

7. Debtor has filed three (3) previous unsuccessful Chapter 13 cases, being case number 17-69268 filed November 13, 2017 and dismissed prior to confirmation February 8, 2018; case number 16-71666 filed December 5, 2016 and dismissed after confirmation October 22, 2017; and case number 12-56267 filed March 6, 2012. Based on the foregoing, the Chapter 13 Trustee respectfully moves the Court to dismiss the instant case with prejudice, thereby rendering the Debtor ineligible for relief under Title 11 for one hundred eighty (180) days, pursuant to 11 U.S.C. Sections 1325(a)(3), 1325(a)(7), 105(a), 109(g) and 349(a).

WHEREFORE, the Trustee moves the Honorable Court to inquire into the above objections at the separately scheduled and noticed confirmation hearing, deny Confirmation of the Debtor's Chapter 13 plan and dismiss the case pursuant to 11 U.S.C. Sections 105(a) and 109(g), thereby rendering the Debtor ineligible from re-filing another Chapter 13 case for one hundred eighty (180) days.



/s/ Jonathan S. Adams
Jonathan S. Adams
Attorney for Chapter 13 Trustee
GA Bar No. 979073

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CERTIFICATE OF SERVICE

This is to certify that I have this day served:

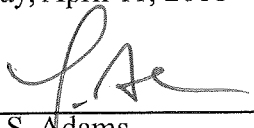
DEBTOR(S):
CAROLYN ELAINE MILLER
749 GEORGETOWN LANE
JONESBORO, GA 30236

DEBTOR(S) ATTORNEY:
SLIPAKOFF & SLOMKA, PC
OVERLOOK III, SUITE 1700
2859 PACES FERRY RD, SE
ATLANTA, GA 30339

in the foregoing matter with a copy of this Objection to Confirmation & Motion to Dismiss by depositing in the United States Mail a copy of same in a properly addressed envelope with adequate postage thereon.

Wednesday, April 11, 2018

/s/



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